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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91215338
Party	Defendant EMIT Technologies, Inc.
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Date	10/19/2015
Attachments	Motion to Set Aside Judgment.pdf(213236 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of application Serial No. 85/912,789 for the mark **EMIT**

Published in the *Official Gazette* on September 10, 2013

EMITEC GESELLSCHAFT FUR  
EMISSIONSTECHNOLOGIE MBH,

*Opposer,*

v.

EMIT TECHNOLOGIES, INC.,

*Applicant.*

Proceeding No. 91-215,338

United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

**STIPULATION TO SET ASIDE JUDGMENT**

Pursuant to Rule 544 of the Trademark Trial and Appeal Board Manual of Procedure and Fed. R. Civ. P. 60(b), as made applicable by 37 CFR § 2.116(a), Applicant EMIT Technologies, Inc. (“Applicant”) and Opposer Continental Emitec GmbH (“Opposer” and together with Applicant, “the Parties”) stipulate to vacating or setting aside the judgment entered against Applicant as to Class 7 by the Trademark Trial and Appeal Board (“TTAB”) on October 2, 2015.

As noted in Applicant’s Motion to Amend, filed on August 31, 2015 (“Motion to Amend”), the Parties entered into an agreement whereby they agreed to a settlement subject to Applicant’s amendment of the identification of goods and services of the subject application. In

the Motion to Amend, it was stipulated that Applicant had secured the express consent of Opposer for these proposed amendments.

In her October 2, 2015 ruling, the Interlocutory Attorney acknowledged that the amendments were with Opposer's consent, holding that the amendment to Class 9 was approved and entered "because opposer consents thereto." However, although Applicant indicated in the Motion to Amend that the Parties had entered into a written agreement whereby Opposer had consented to the deletion of Class 7, because a copy of the written consent was not submitted with the Motion to Amend, judgment was entered against the Applicant with respect to Class 7.

For the sake of clarity, the Parties hereby acknowledge and agree that the Motion to Amend, including the deletion of Class 7, was with Opposer's consent and, as such, the Parties stipulate that the circumstances of this case warrant setting aside or vacating the judgment against Applicant as to Class 7 of the subject application.

Dated: October 19, 2015

Respectfully submitted,

By: /Elizabeth E. Brenckman/

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### **CERTIFICATE OF SERVICE**

I hereby certify that, on this 19th day of October, 2015, a true and correct copy of the foregoing document has been served by electronic mail upon Opposer's attorneys of record in this proceeding at radonnelly@ratnerprestia.com and tmde@ratnerprestia.com.

/s/ Elizabeth E. Brenckman

Elizabeth E. Brenckman